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SUBJECT: DIET APPROVES BILL AMENDING COPYRIGHT LAW

¶1. Japan's Diet approved legislation amending the Copyright Law June 12. The revised law goes into effect January 1, 2010 and addresses piracy issues and the use of digital content as well as facilitates information access for the handicapped.

Illegal downloading

¶2. The amended copyright law makes downloading music and motion pictures from unauthorized Internet sources unlawful, provided the users know the website is being operated illegally. Previously, such behavior was deemed permissible within the parameters of private use provisions. The recording industry has long advocated a change in the law to address the rapid rise in illegal downloads among Japanese consumers that have diminished legitimate music sales. In 2008, for example, users downloaded 400 million songs from illegal Internet sources to cell phones, a figure that exceeds the 330 million songs downloaded from legitimate sources, according to the Recording Industry Association of Japan, RIAJ. Although the amendments do not prescribe either administrative or criminal penalties, industry welcomes the new law as a step in the direction of encouraging greater use of legitimate sites. Separately, the Diet introduced a non-binding resolution to promote the use of identification marks certifying content legitimacy.

Internet Sales

¶3. The revised law also for the first time criminalizes vendors who knowingly advertise on the Internet pirated goods such as DVDs and provides for penalties of up to 5-year imprisonment and/or a maximum of 5 million yen fine (about US\$52,000). Japan's current Copyright Law criminalizes sales, but not advertising, of pirated good on the Internet.

Digital Content

¶4. The revised law expands compulsory licensing for orphan works (i.e., works where it is difficult or impossible to contact the copyright holders) to include "related" rights holders such as music performers. The amendments are designed to facilitate the use of Internet-based transmission of older programming previously available only via television.

Other Revisions

¶5. Other new provisions in the amended Copyright Law allow for the

following:

-- The creation of a content database administered by the National Diet Library for preservation of older materials. (Article 31, Paragraph 2)

-- Conversion of letters to voice in order to facilitate the copying and uploading of converted materials on networks so that the visually and hearing impaired can recognize copyrighted works. (Article 37, Paragraph 3; Article 37-2)

-- Reproduction of data on servers to prevent congestion of Internet servers as well as to recover data from damaged servers. (Article 47, Paragraph 5-1)

-- Reproduction of contents to the extent necessary in order to carry out efficient transmission by Internet proxy servers. (Article 47, Paragraph 5-2)

-- Reproduction, as appropriate, of data for information analysis purposes. (Article 47, Paragraph 7)

ZUMWALT